

REMARKS

In the instant Office Action, claims 1-9 are listed as pending, claims 6 and 10-12 are withdrawn from consideration by the Examiner,¹ claim 7 is objected to, and claims 1-5, 8 and 9 are finally rejected under 35 U.S.C. §103(a).

Applicants have amended claim 7 in the manner suggested by the Examiner to place the claim in condition for allowance. Applicants have amended claims 10-11 so that claims 10-11 depend on claim 7, rather than claim 1. Claim 12 remains dependent on claim 11, which in turn depends on claim 1. Applicants have also cancelled claims 1-6 and 8-9.

No new matter has been introduced by the above amendments, which are submitted without waiver or prejudice to Applicants' ability to pursue any subject matter cancelled thereby in any continuing patent application. Claims 7 and 10-12 are currently pending. Reconsideration of the application, as amended, is respectfully requested.

- Request for Rejoinder of Withdrawn Claims 10-12

Applicants respectfully request, in the event that the Examiner finds that claim 7 is patentable, the rejoinder of withdrawn claims 10-12 since such claims require the use of patentable subject matter. As noted in MPEP §821.04:

[I]f Applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants submit that claims 10-11 currently incorporate the limitation of claim 1 by the language "a compound according to claim 7." In a similar manner, claim 12 currently incorporates the limitations of claim 1 by the language "according to claim 11" wherein

claim 11 incorporates the compound according to claim 7. Therefore, Group II and Group III claims would be appropriate for rejoinder upon allowance of Group I product claim 7.

CONCLUSION

Reconsideration of the instant Office Action and allowance of all pending claims are respectfully requested. Prompt and favorable action is solicited. Should Examiner Borin deem that any further action by the Applicants would put this application in order for acceptance, he is requested to contact the Applicants' undersigned representative.

Respectfully submitted,

Date:

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¹ In the instant Office Action, the Examiner does not address claims 10-12, which claims remain withdrawn. Applicants believe the Examiner inadvertently failed to indicate that claims 10-12 remain pending in the instant application, albeit currently withdrawn from consideration by the Examiner.